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Attorneys for Plaintiff
15 UNITED STATES OF AMERICA

16 UNITED STATES DISTRICT COURT

17 FOR THE CENTRAL DISTRICT OF CALIFORNIA

18 UNITED STATES OF AMERICA,

19 Plaintiff,

20 v.

21 MATEUS PINA MENDES,

22 Defendant.
23
24

No. CR 22-CR-371-PA

GOVERNMENT'S SENTENCING POSITION
FOR DEFENDANT MATEUS PINA MENDES

Sentencing Date: Jan. 10, 2023
Sentencing Time: 12:00 p.m.
Location: Courtroom of the
Hon. Percy Anderson

25 Plaintiff United States of America hereby submits its position
26 regarding the sentencing of defendant MATEUS PINA MENDES
27 ("defendant").
28

1 This position is based upon the attached memorandum of points
2 and authorities, the Presentence Report disclosed by the United
3 States Probation Office on November 30, 2022, the files and records
4 in this case, and such further evidence and argument as the Court may
5 permit.

6 Dated: December 20, 2022

Respectfully submitted,

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11 Chief, Criminal Division

12 /s/ Jennifer Bilinkas
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MEMORANDUM OF POINTS AND AUTHORITIES

For the reasons set forth below, the government recommends a sentence of 21 months' imprisonment to be followed by a three-year term of supervised release, a restitution order in the amount of \$143,283.67, and a special assessment of \$100.

I. FACTUAL BACKGROUND**A. The Fraudulent Scheme**

Between approximately May 2020 and March 2021, defendant MATEUS PINA MENDES ("defendant") was involved in a scheme to defraud the Small Business Administration ("SBA") and its affiliated lenders of approximately \$143,283.67 in funds intended for COVID-19 pandemic relief. Through the use of defunct companies and falsified tax documents, defendant fraudulently obtained federal disaster relief funds from the Paycheck Protection Program ("PPP") and Economic Injury Disaster Loan ("EIDL") program, which were programs aimed to help small businesses suffering from the economic impacts of the COVID-19 pandemic. As part of the scheme, defendant applied for PPP and EIDL loans by making materially false representations about the entities' payroll, revenue, and operating expenses. In furtherance of his fraud, and to further conceal the fraudulent proceeds, defendant misused the PPP and EIDL loan proceeds for his own personal benefit, including the purchase of cryptocurrency and gold coins.

Over the course of the scheme, defendant applied for a total of ten loans totaling approximately \$184,690.67 and in fact received approximately \$143,283.67 in loan proceeds to which he was not entitled. (PSR ¶ 18.)

B. Procedural History

Defendant signed a plea agreement whereby he agreed to plead guilty to a single-count Information to wire fraud, in violation of 18 U.S.C. §1343.¹ (PSR ¶¶ 1-2.) Defendant subsequently appeared before this Court on September 1, 2022 and entered a plea of guilty. (ECF No. 27.)

II. THE PRESENTENCE REPORT

The Probation Office found that defendant's total offense level is 16, based on a base offense level of 7 (U.S.S.G. § 2B1.1(a)(1)), a ten-level upward adjustment for the loss amount over \$150,000 under U.S.S.G. § 2B1.1(b)(1)(F), a two-level upward adjustment for sophisticated means under U.S.S.G. § 2B1.1(b)(10), and a reduction for acceptance of responsibility under U.S.S.G. 3E1.1(a)-(b). (PSR ¶¶ 25-40.) The government concurs in the Probation Office's calculation of defendant's total offense level.

The Probation Office calculated defendant's criminal history category as I based on zero criminal history points. (PSR ¶ 45.) The government concurs in the Probation Office's calculation of defendant's criminal history. With an offense level of 16 and a criminal history category of I, defendant's applicable advisory guidelines sentencing range is 21-27 months.

III. ARGUMENT

A. The Seriousness of the Offense and the Need to Provide Just Punishment Support the Government's Recommended Sentence.

Defendant's criminal conduct in this case is serious, as he fraudulently sought to obtain pandemic-related loans offered to

¹ The government requests that the Court incorporate the plea agreement into the proceedings at the sentencing hearing.

1 address emergency and disaster relief to those businesses affected by
2 the COVID-19 pandemic. The COVID-19 pandemic was an extraordinarily
3 serious public health crisis, and it had profound economic
4 ramifications. Defendant's exploitation of the crisis not only cost
5 the government, the SBA, and affiliated lenders time and money, but
6 also diverted funds that could have been used the way PPP loans were
7 intended: to assist struggling businesses and to keep people
8 employed. Instead, defendant took money that was earmarked for
9 legitimate small businesses and dissipated it for his own personal
10 enrichment. Moreover, this was not a victimless crime. The PPP and
11 EIDL programs were not a limitless pot of money. By taking money he
12 was not entitled to, defendant defrauded taxpayers who helped fund
13 the program and the SBA which guarantees these loans, and also
14 potentially made it more difficult for legitimate loan applicants to
15 obtain pandemic relief funds.

16 Furthermore, defendant's fraud was not an impulsive one-off; he
17 applied for ten different loans to which he knew he was not entitled,
18 and knowingly submitted false documents attesting to these defunct
19 companies, payroll expenses, tax payments, and other financial
20 information. As such, defendant's conduct, which through the
21 diversion of relief money caused direct harm to a vulnerable public,
22 warrants a meaningful custodial sentence.

23 **B. The Need for General Deterrence Supports the Government's**
24 **Recommended Sentence.**

25 A significant sentence is also necessary to provide general
26 deterrence. Defendant's actions warrant commensurately significant
27 consequences, both due to the seriousness of the offense and as a
28 general deterrent to send a message to the broader public that taking

1 advantage of a national emergency to enrich oneself at the public
2 expense will result in serious consequences. Given that criminal
3 conduct like defendant's is typically more difficult to detect and
4 prosecute than sudden crimes of passion or opportunity, there is a
5 greater need for general deterrence. See, e.g., United States v.
6 Martin, 455 F.3d 1227, 1240 (11th Cir. 2006) (internal quotation marks
7 omitted)); United States v. Heffernan, 43 F.3d 1144, 1149 (7th Cir.
8 1994) ("Considerations of (general) deterrence argue for punishing more
9 heavily those offenses that either are lucrative or are difficult to
10 detect and punish, since both attributes go to increase the expected
11 benefits of a crime and hence the punishment required to deter it.").
12 Here, the government's proposed sentence will help to deter other
13 fraudsters, like defendant, who believe that they can generate income
14 through fraudulent schemes against government agencies during a time of
15 crisis.

16 **C. The Need to Avoid Unwarranted Sentencing Disparities Among**
17 **Similarly Situated Defendants Supports the Government's**
Recommended Sentence.

18 Section 3553(a)(6) directs the Court to consider "the need to
19 avoid unwarranted sentence disparities among defendants with similar
20 records who have been found guilty of similar conduct." The
21 Government therefore notes for the Court's awareness that two
22 defendants in related cases have pleaded guilty and been sentenced.
23 On December 12, 2022, this Court sentenced Ramiro Mendes (22-CR-370-
24 PA) to 41 months' imprisonment and Ammon Mendes (22-CR-369-PA) to 21
25 months' imprisonment. As such, the government believes that a
26 sentence of 21 months' imprisonment for the defendant would avoid any
27 unwarranted sentencing disparities.
28

1 **D. Restitution**

2 Restitution is applicable pursuant to 18 U.S.C. § 3663A. (PSR ¶
3 19.) The Mandatory Victim Restitution Act ("MVRA") requires a
4 district court to order restitution when (1) a defendant commits an
5 "offense against property," and (2) there is an identifiable
6 "victim." 18 U.S.C. § 3663A(a)(1), (c)(1). The scheme to submit
7 fraudulent PPP and EIDL loan applications to the SBA and affiliated
8 lenders is an offense against the property of the United States. The
9 MVRA provides for "restitution to each victim in the full amount of
10 each victim's losses," and restitution must be determined "without
11 consideration of the economic circumstances of the defendant." 18
12 U.S.C. § 3664(f)(1)(A). The amount of restitution due in this case,
13 measured by the amount that the defendant received in PPP and EIDL
14 loan proceeds, is \$143,283.67. (PSR ¶ 20; Plea Agreement ¶ 6.)

15 **IV. CONCLUSION**

16 For the foregoing reasons, the government believes that a
17 sentence of 21 months imprisonment, a three-year term of supervised
18 release, a restitution order in the amount of \$143,283.67, and a
19 special assessment of \$100 is sufficient, but not greater than
20 necessary, to comply with the purposes of 18 U.S.C. § 3553(a).
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